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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EDUARDO I.T., et al.,)	CASE NO. 4:22-cv-05333-DMR
)	
Plaintiffs,)	STIPULATION AND PROPOSED ORDER TO
)	SET BRIEFING SCHEDULE AND INCREASE
v.)	PAGE LIMITS AND TO CONTINUE CASE
)	MANAGEMENT SCHEDULE ***AS
UNITED STATES OF AMERICA,)	MODIFIED***
)	
Defendant.)	

WHEREAS on September 20, 2022 Plaintiffs filed their Complaint in this action;

WHEREAS on September 21, 2022, the Clerk of Court issued an Order Setting Initial Case Management Conference and ADR Deadlines that, among other things, provided deadlines for the parties' Rule 26(f) conference (November 30, 2022), their Case Management Statement (December 14, 2022) and a Case Management Conference (December 21, 2022);

WHEREAS on September 23, 2022 Plaintiffs served their Complaint on the United States Attorney for the Northern District of California;

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WHEREAS pursuant to Federal Rule of Civil Procedure 12(a)(2), the deadline for Defendant to answer or otherwise respond to Plaintiffs' Complaint is November 22, 2022, which is 60 days after said service on the United States Attorney;

WHEREAS Defendant intends to file a dispositive motion on November 22, 2022; and

WHEREAS the parties have conferred about (1) setting a briefing schedule for said motion to be filed by the Government on November 22, 2022 and (2) continuing the case management deadlines to occur as soon as possible after resolution the Government's motion,

Pursuant to Civil Local Rules 6-2 and 7-12, and subject to the Court's approval, the parties stipulate as follows:

(1) The parties propose the following briefing schedule:

Defendant's motion	November 22, 2022
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Plaintiffs' opposition	December 23, 2022
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Defendant's reply	January 12, 2023
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Hearing	January 26, 2023
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(2) Plaintiffs plead six separate causes of action in their 62-page complaint. In light of the issues raised in the Complaint, the parties respectfully request that their briefing on their responsive pleading be permitted to exceed the pages limits set forth in Civil Local Rules 7-2 and 7-3. Specifically, the parties request that Defendant be permitted 30 pages for its motion, Plaintiffs be permitted 30 pages for their opposition, and Defendant be permitted 18 pages for its reply.

(3) The parties further propose that the Court continue the case management deadlines set by the Clerk of Court prior to the service of the Complaint (*i.e.*, the Rule 26(f) conference, the filing of a Case Management Statement and a Case Management Conference) such that they would take place as soon as possible after the Court has resolved the Government's motion. In the event the Court denies the Government's motion, the parties propose the following case management deadlines:

Defendant's Answer	Due 21 days after denial of motion
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Rule 26(f) Conference	To be held within 14 days of Answer
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CMC Hearing

To be held within 21 days of Rule 26(f) Conference

CMC Statement

To be filed 7 days prior to CMC hearing

IT IS SO STIPULATED.

Dated: November 15, 2022

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: /s/ Dustin Chase-Woods
Blaine I. Green
Dustin Chase-Woods

LAWYERS' COMMITTEE FOR CIVIL RIGHTS
OF THE SAN FRANCISCO BAY AREA

By: /s/ Bree Bernwanger
Bree Bernwanger
Victoria Petty

Counsel for Plaintiffs

Dated: November 15, 2022

Respectfully submitted,

STEPHANIE M. HINDS
United States Attorney

/s/ Kenneth W. Brakebill
Kenneth Brakebill
Assistant United States Attorney

Counsel for the United States of
America

ECF ATTESTATION

In accordance with Civil Local Rule 5-1(h)(3), I, Kenneth Brakebill, attest that I have obtained concurrence in the filing of this document from all other signatories listed here.

DECLARATION OF KENNETH BRAKEBILL

I, Kenneth Brakebill, declare and state as follows:

1. I am an Assistant United States Attorney for the Northern District of California and counsel for the United States of America in this action. I have personal knowledge of the matters set forth below, except those matters that are based on information and belief, which I believe to be true, and could and would testify competently to them if called to do so.

2. I submit this declaration in support of the Stipulation and [Proposed] Order to Set Briefing Schedule and Increase Page Limits and to Continue Case Management Schedule pursuant to Civil Local Rules 6-2 and 7-12.

3. Plaintiffs, consisting of three sets of parents and their children, filed a 62-page complaint in this action pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b)(1), 2671-2680. Plaintiffs assert six separate claims for relief, including intentional infliction of emotional distress, negligence, abuse of process, negligent supervision/breach of fiduciary duty, loss of consortium and intentional interference with custodian relations. ECF No. 1.

4. The parties stipulate to and request a briefing schedule for the dispositive motion the Government plans to file on November 22, 2022 in response to the Complaint. This briefing schedule would alter the normal 35-day motion calendar to allow additional time for the parties to address the myriad issues raised in the Complaint and also accommodate the holiday schedule, by providing Plaintiffs 17 extra days for opposition and Defendant 13 extra days for reply.

5. In light of the issues raised in the Complaint, the parties also respectfully request that their briefings on any responsive pleading be permitted to slightly exceed the 25-25-15 page limits set forth in Civil Local Rules 7-2 and 7-3 for motion-opposition-reply. Specifically, the parties request that Defendant be permitted 30 pages for its motion, Plaintiffs be permitted 30 pages for their opposition, and Defendant be permitted 18 pages for its reply.

6. Because Defendant is filing a dispositive motion that could impact what issues, if any, will remain in the case for resolution, for judicial economy reasons the parties further propose that the Court continue the case management deadlines set by the Clerk of Court prior to the service of the

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Complaint. The parties respectfully request that the Court continue the current deadlines for the Rule 26(f) conference (November 30, 2022), the filing of a Case Management Statement (December 14, 2022) and a Case Management Conference (December 21, 2022) to take place as soon as possible after the Court has resolved the Government's motion, in the event the Court denies the Government's motion. The parties' proposal provides for minimal delay in resuming the case schedule after the Court's ruling:

Defendant's Answer	Due 21 days after any denial of motion
Rule 26(f) Conference	To be held within 14 days of Answer
CMC Hearing	To be held within 21 days of Rule 26(f) Conference
CMC Statement	To be filed 7 days prior to CMC hearing

7. There have been no previous time modifications in the case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: November 15, 2022

/s/ Kenneth Brakebill

Kenneth Brakebill
Assistant United States Attorney

~~[PROPOSED]~~ ORDER

Pursuant to stipulation, IT IS SO ORDERED that:

1. Should the Government file a motion in response to the complaint on November 22, 2022, the following schedule shall apply:

Defendant's motion	November 22, 2022
Plaintiffs' opposition	December 23, 2022
Defendant's reply	January 12, 2023
Hearing	January 26, 2023

2. Defendant is permitted 30 pages for its motion, Plaintiffs are permitted 30 pages for their opposition, and Defendant is permitted 18 pages for its reply.

3. The current deadlines for the parties' Rule 26(f) conference (November 30, 2022), their Case Management Statement (December 14, 2022) and a Case Management Conference (December 21, 2022) shall be vacated pending the Court's resolution of Defendant's dispositive motion to be filed on November 22, 2022. In the event the Court denies the Government's motion, the case schedule shall resume as follows:

Defendant's Answer	Due 21 days after denial of motion
Rule 26(f) Conference	To be held within 14 days of Answer
CMC Hearing	To be held within 21 days of Rule 26(f) Conference
CMC Statement	To be filed 7 days prior to CMC hearing

The court shall set remaining dates at a later time if necessary.

DATED: 11/18/2022


 HON. DONNA M. RYU
 United States Magistrate Judge